

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ROME DIVISION**

PATRICIA FAYE ALLEN, :
INDIVIDUALLY AND :
AS THE ADMINISTRATOR OF :
THE ESTATE OF :
TRACY FAYE EDGE, DECEASED :

PLAINTIFF, :

vs. :

ENDO PHARMACEUTICALS, INC. :
FKA QUALITEST :
PHARMACEUTICALS; :
ENDO HEALTH SOLUTIONS INC., :
RHODES PHARMACEUTICALS L.P. :
DBA RHODES PHARMACEUTICALS; :
MCKESSON CORPORATION; :
NAVICENT HEALTH, INC., :
NAVICENT HEALTH FOUNDATION, :
INC. :
DBA THE MEDICAL CENTER :
NAVICENT HEALTH; :
ATRIUM HEALTH; :
THE CHARLOTTE-MECKLENBURG :
HOSPITAL AUTHORITY; :
KROGER DEDICATED LOGISTICS :
CO.; KROGER MANAGEMENT :

CASE NO. 4 18cv 96-HCM

NMTC ATHENS I, LLC,
KROGER MANAGEMENT – :
NMTC GRIFFIN I, LLC,
KROGER PRESCRIPTION PLANS, :
INC., KROGER PHARMACY, DBA :
THE KROGER COMPANY, DBA :
KROGER;
DR. EDWIN WALKER GRIMSLEY, :
MD; DR. LUKE THOMAS WALKER, :
MD; :
DEFENDANTS :

COMPLAINT

Plaintiff, Patricia Faye Allen brings this action for wrongful death on behalf of her daughter, Tracy Faye Edge, and as the duly appointed Administrator of the Estate of Tracy Faye Edge, Deceased, against defendants Endo Pharmaceuticals, Inc, Qualitest Pharmaceuticals, Rhodes Pharmaceuticals L.P., Rhodes Pharmaceuticals, McKesson Corporation, Navicent Health Inc., Navicent Health Foundation, Inc., The Medical Center Navicent Health, Atrium Health, the Charlotte-Mecklenburg Hospital Authority; Kroger Dedicated Logistics Co., Kroger Management NMTC Athens I, LLC, Kroger Management-NMTC Griffin I, LLC, Kroger Prescription Plans, Inc., Kroger Pharmacy, The Kroger Company, Kroger, Dr. Edwin Walker Grimsley, and Dr. Luke Thomas Walker.

1. Plaintiff Patricia Faye Edge, Plaintiff, is a resident of Georgia, the mother of Patricia Faye Allen, Deceased, and the Administrator of the Estate of Tracy Faye Edge's Estate. Plaintiff brings this action for the wrongful death of Tracy Faye Allen. Plaintiff submits to the jurisdiction and venue of this Court.
2. Endo Pharmaceuticals, Inc. also known as Qualitest Pharmaceuticals is a Delaware Corporation with its registered agent as The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware with its principal place of business at 1400 Atwater Drive, Malvern, Pennsylvania 19355. Endo Pharmaceuticals, Inc. is an owned subsidiary of Endo Health Solutions, Inc. and is a Delaware Corporation with its principal place of business in Malvern, Pennsylvania. Endo Pharmaceuticals, Inc., Qualitest Pharmaceuticals, and its subsidiaries manufacture, develop, market, and sell prescription drugs, including Amitriptyline.
3. Rhodes Pharmaceuticals L.P. also known as Rhodes Pharmaceuticals is a Delaware Foreign Limited Partnership organized under the laws of Delaware doing business at 498 Washington Street, Coventry, Rhode Island 02816, and its principal place of business as 2711 Centerville Road, Suite 400, Wilmington, DE 19808, and may be served with process to its

registered agent Corporation Service Company, 222 Jefferson Boulevard, Suite 200, Warwick, RI 02888, and Corporation Service Company, 251 Little Falls Drive, Wilmington, DE 19808. Rhodes Pharmaceuticals L.P. and its subsidiaries manufacture, develop, market, and sell prescription drugs, including Morphine.

4. McKesson Corporation is a Delaware Corporation, with its principal place of business located at One Post Street, 35th Floor, San Francisco, California, 94104, and may be served with process to its registered agent, Corporation Service Company, 251 Little Falls Drive, Wilmington, DE, 19808, and its Georgia registered agent, Corporation Service Company, 40 Technology Parkway South, #300, Norcross, GA 30092. McKesson Corporation is a licensed pharmacy wholesaler in Georgia, with a principal place of business in California. McKesson and its subsidiaries distribute, supply, and sell prescription drugs, including Amitriptyline and Morphine.
5. Navicent Health Inc., Navicent Health Foundation Inc., the Medical Center Navicent Health may be served with process to its registered agent Kenneth B. Banks, 691 Cherry Street, Macon, GA 31201. The Charlotte-Mecklenburg Hospital Authority also doing business as Atrium Health, may be served with process to its registered agent Keith A. Smith, at 1111 Metropolitan Avenue Suite 600, Charlotte, NC 28204. Navicent Health Inc,

Navicent Health Foundation, Inc., the Medical Center Navicent Health, Atrium Health, and the Charlotte-Mecklenburg Hospital Authority by and through partnership and association and as successor in interest in liability and claims, run the Medical Center Navicent Health and its clinics where Tracy Faye Edge sought care from Dr. Edwin Walker Grimsley and Dr. Luke Thomas Walker, and where Tracy Faye Edge received a prescription for Morphine, 60 tablets.

6. Kroger Dedicated Logistics Co., Kroger Management NMTC Athens I, LLC, Kroger Management -NTMTC Griffin I, LLC, Kroger Prescription Plans, Inc., Kroger Pharmacy, the Kroger Company, and Kroger, operating under the tradename Kroger, are foreign business entities operating in Georgia with a principal place of business as 1014 Vine Street, Cincinnati, Ohio 45202, and can be served with process to its registered agent CSC of Cobb County, Inc., 192 Anderson Street SE, Suite 125, Marietta, GA 30060. Kroger, and its subsidiaries filled the prescription for Amitriptyline and Morphine.
7. Dr. Edwin Walker Grimsley, MD, works for The Medical Center Navicent Health, and can be served with process at 707 Pine Street, Macon, GA 31201.

8. Dr. Luke Thomas Walker, MD, formerly worked as a Resident Doctor in Training with Dr. Edwin Walker Grimsley, MD for the Medical Center Navicent Health, and can be served with process at 743 Spring Street North East, Gainesville, GA 30501.
9. Tracy Faye Edge died from Morphine and Amitriptyline toxicity on April 20, 2016.
10. The Morphine was manufactured by Rhodes Pharmaceuticals L.P. dba Rhodes Pharmaceuticals and distributed by the McKesson Corporation.
11. The Morphine was prescribed by Dr. Edwin Walker Grimsley and Dr. Luke Thomas Walker at Navicent Health, the Medical Center Navicent Health.
12. At the time of the prescription, Dr. Luke Thomas Walker was a Resident Doctor in Training under the direction of Dr. Edwin Walker Grimsley.
13. Dr. Luke Thomas Walker and Dr. Edwin Walker Grimsley worked for Navicent Health Inc. its successor heirs, partners, and or assigns and clinics.
14. The prescription for the Morphine was filled on April 11, 2016 at Kroger Pharmacy, Kroger, 4341 Hartley Bridge Road, Macon, Georgia, 31204.
15. The prescription for Amitriptyline was filled at the same Kroger Pharmacy on March 23, 2016.
16. Tracy Faye Edge died, April 20, 2016, just 9 days after the Morphine prescription was filled for 60 tabs at 15 mg for 30 days at Kroger, marketed

and manufactured by Rhodes Pharmaceuticals LP., prescribed by Dr. Edwin Walker Grimsley, with the assistance of Resident Doctor in Training Dr. Luke Thomas Walker.

17. Tracy Faye Edge had a long, documented history of psychiatric issues and was taking Amitriptyline at the time the Morphine was prescribed.

18. This Court has jurisdiction over this case under 28 U.S.C. § 1332 because the matter in controversy exceeds the sum or value of \$75,000.00 and involves foreign corporations from other States. Venue is proper under 28 U.S.C. 1391 (d) for the purposes of venue under this chapter, in a state which has more than one judicial district and in which a defendant that is a corporation is subject to personal jurisdiction at the time an action is commenced, such corporation shall be deemed to reside in any district in that State.

19. This Court has jurisdiction as the case involves the controlled opioid drug, Morphine, regulated by the Controlled Substances Act (CSA), administered by the Drug Enforcement Administration (DEA). 21 U.S.C. § 801.

20. This Court also has jurisdiction under 28 U.S.C. Code §1391 (g) for multi-party, multi-forum litigation. Currently there is already multi-party, multi-forum litigation against some of the same defendants in a class action

Morphine-Opioids case in the Northern District Case 4:18-CV-00052-HLM.

City of Rome v. Purdue Pharma, Endo Pharmaceuticals, Inc. and McKesson

Corporation et. al. To streamline the core operative facts, regarding the Morphine death in the class action in this District and in this case, the Plaintiff voluntarily submits to the jurisdiction and venue of this Court. Combining the cases in this District avoids duplicitous litigation and promotes judicial economy.

21. Under 28 U.S. §1391 (a) (2) the proper venue for a civil action shall be determined without regard to whether the action is local or transitory in nature.
22. The Defendants had knowledge, actual or constructive, or otherwise that Morphine combined with Amitriptyline would be fatal.
23. The Defendants had knowledge, both actual and constructive, of the danger that Morphine combined with Amitriptyline posed but failed to exercise ordinary care.
24. The Defendants had knowledge, both actual and constructive, that any opioid drugs prescribed to any patient, much less a patient with severe, chronic, long-term psychiatric history could prove fatal, and yet the Defendants continued to market and encourage doctors to prescribe opioids such as Morphine.

25. The Defendant Pharmacy, Doctors, Hospital, Health Care Provider, Distributor, and Manufacturer failed to warn the Plaintiff about the adverse effects associated with the Plaintiff's prescribed Morphine, filled April 11, 2016, combined with Amitriptyline, filled March 23, 2016.
26. The Defendants failed to monitor the Plaintiff's prescription drug history.
27. The Defendants negligently marketed, manufactured, distributed, dispensed and prescribed the prescription drugs that caused the death of Tracy Faye Edge.
28. Plaintiff requests general and special damages for injury, pain, and suffering, and death in an amount to be determined by the enlightened conscience of the jury.
29. Defendants showed willful misconduct, wantonness, oppression, or that entire want of care which raises the presumption of conscious indifference to consequences. Accordingly, Plaintiff is entitled to an award of punitive damages pursuant to O.C.G.A. §51-12-5.1.
30. Defendants' representations, concealments, and omissions constitute a willful and an unconscionable course of conduct.
31. Defendants had a duty to disclose material facts that could and did cause the death of Plaintiff.

32. Defendants knew or should have known through the exercise of reasonable care that Plaintiff should have never been prescribed, dispensed, marketed or sold the prescription drugs that caused Plaintiff's death.
33. Defendants' failures amounted to a breach of the duty to exercise reasonable care.
34. Defendants' negligence actually and proximately caused Tracy Faye Edge's death, rendering the Defendants liable to Plaintiff for Tracy Faye Edge's injuries, pain and suffering, the value of her life, and all other elements of damages allowed under the laws of the State of Georgia.
35. Each of the foregoing acts and omissions constitute an independent act of negligence on the part of the Defendants, and one or more or all of the above stated acts, or failures to act were the proximate causes of Tracy Faye Edge's injuries and death. As a result, the Defendants are joint tort-feasors and their combined negligence renders them liable to Plaintiff for Tracy Faye Edge's death and all damages recoverable under the law.
36. Compensatory damages exceed \$75,000.00.

Count 1

37. Plaintiff realleges and incorporates paragraphs 1 through 36, as fully set forth herein.

38. Defendants each breached the duty owed to Tracy Faye Edge by failing to exercise ordinary care and leading up to the date of Tracy Faye Edge's death on or about April 20, 2016 of Morphine and Amitriptyline toxicity per the autopsy and medical examiner's report. Defendants breach and negligence caused the wrongful death of Tracy Faye Edge.

39. As a result of Defendants' negligence, Tracy Faye Edge died of Morphine and Amitriptyline toxicity.

Count 2

40. Plaintiff realleges and incorporates paragraphs 1 through 39, as fully set forth herein.

41. Defendants failed to follow guidelines and rules as regulated by the Controlled Substances Act (CSA), administered by the Drug Enforcement Administration (DEA). 21 U.S.C. § 801, resulting in Tracy Faye Edge's death from Morphine and Amitriptyline toxicity.

WHEREFORE, Plaintiff demands a trial by jury and a judgment against the Defendants as follows:

- (a) Enter judgment against the Defendants in favor of the Plaintiff;
- (b) Order that Defendants compensate Plaintiff for actual damages, treble damages, and punitive damages;

- (c) Order Defendants to pay Plaintiff damages for the full value of Tracy Faye Edge's life;
- (d) Order Defendants to pay Plaintiff compensatory damages in excess of the statutory amount to be determined by a fair and impartial jury;
- (e) Award Plaintiff all costs of this action, including attorney's fees, interest, and costs;
- (f) Award Plaintiff such other relief as the Court deems just and proper under the circumstances;
- (g) Plaintiff demands a trial by jury for all issues triable by a jury;
- (h) Plaintiff requests the Court order Alternative Dispute Resolution (ADR) to any of the Defendants willing to submit and agree to ADR to resolve any and all claims against some or all of the Defendants if a Defendant or multiple Defendants are willing to submit to ADR for possible settlement negotiations.

Respectfully submitted this 19th day of April 2018.

/S/ BONNIE MICHELLE SMITH
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